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Date:

3/28/09

Mark D. Lenhart

Appn. Title: SUBSTANCES THAT ENHANCE RECALL & LUCIDITY DURING DREAMING
Serial Number: 10/604,138 Appn. Filed: 06/27/2003
Patent Agent: Mark D. Lenhart, # 53203 Applicant: Stephen LaBerge
Examiner/GAU: MCMILLIAN, KARA RENITA / 1617 Doc #: ML100

RESPONSE TO AN ELECTION OF SPECIES RESTRICTION REQUIREMENT

MAIL STOP: AMENDMENT
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir/Ma'am:

This is a response to the Official Action mailed January 28, 2009. The time for responding expires on February 28, 2009. Applicant requests a 1 month extension of time under 37 C.F.R. § 1.136(a) extending the time for response from February 28th, 2009, to Saturday March 28th, 2009, pursuant to 37 C.F.R. § 1.7. The commissioner is hereby authorized to charge the fee of \$65.00 as set forth in 37 C.F.R. § 1.17(a)(1) for a small entity for this extension. A check is enclosed.

In the last Office Action, Examiner requests two species elections, stating that:

Claims 1-10 are generic to the following disclosed patentably distinct species:

(1) Species of a class of substances that intensify REM sleep (Applicant must choose one disclosed species such as an acetylcholine esterase inhibitor or a cholinergic agonist or a muscarinic receptor agonist, etc);

(2) Applicant must further elect a single species of a drug from the elected class of drugs that intensify REM sleep (for example, if Applicant chooses the acetylcholine inhibitor as the class of drugs that intensify REM sleep, applicant must further specific acetylcholine esterase inhibitor such as one from those listed in claim 2).

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With regards to the first species election requirement, Applicant hereby elects, without traverse, the Acetylcholine esterase inhibitor species. However, Applicant does wish to state that the present Patent Application is aimed at the broad class of Acetylcholine neurotransmitter modulators (line 002 of the specifications), and their ability to influence Lucid Dreaming. Due to the extremely arcane and sparse nature of dream lucidity prior art, Applicant believes that the few cited species of Acetylcholine modulators would not create an undue search burden.

With regards of the second species election requirement, by way of this amendment Applicants elects, with traverse, the Huperzine A species of Acetylcholine modulators. The non-elected species have been withdrawn without prejudice.

Applicant respectfully wishes to state that Donepezil, Rivastigmin, Galantamine, Tacrine, and Huperzine are well known Acetylcholine Esterase inhibitors to a person of ordinary skill in the art, and most all of these compounds share a common empirical formula ($C_xH_yN_zO_n$), as well as an NH_2 amine functional group. Therefore, it is Applicant's suggestion that at least insofar as Donepezil, Rivastigmin, Galantamine, Tacrine, and Huperzine sub-species of Acetylcholine Esterase inhibitors are concerned, a search of these compound classes would not be burdensome on the Examiner. Accordingly, Applicant believes that an election of a single species of compound is not required here, and that the examination of the elected Group I may take place without this requested election. Thus, Applicant respectfully requests that the Examiners election of species request for the single compound be reconsidered and withdrawn.

Applicant believes that all requirements of patentability are fully met by the pending claims.

The Examiner is invited to contact Applicant's Agent, Mark Lenhart, at 650-450-4430 should there be any questions about this Response.

Sincerely,

Applicant, Stephen LaBerge, c/o



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